LFC Requester:	Klundt

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: *02/25/25* *Check all that apply:*
Bill Number: *SB 167aSFC / SJR6* Original __ Correction __
Amendment _x Substitute __

Sponsor: Padilla
Short Title: Early Childhood Trust Fund / Early Childhood Trust Fund CA

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	($9,015,792.4)	Nonrecurring	Early Childhood Education & Care Fund (statutory fund)
	$9,015,792.4	Nonrecurring	Early Childhood Trust Fund (constitutional fund)

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
$0.0	**($196,682.5)**	**($89,100.0)**	Recurring	Early Childhood Education & Care Fund / Early Childhood Trust Fund
$0.0	$196,682.5	$89,100.0	Recurring	Early Childhood Education & Care Program Fund / Early Childhood Program Fund

(Parenthesis ( ) indicate revenue decreases)

Senate Bill 167 (SB167) is a companion to Senate Joint Resolution 6 (SJR6). The provisions of SB167 are contingent upon the passage of SJR6 and adoption of its proposed constitutional amendment by New Mexico voters.

Because SB167 and SJR6 are inherently intertwined, this analysis considers the fiscal impact of the two proposals in tandem.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of Senate Rules Committee amendment to SB167

The SRC amendment to SB167 allows the early childhood program fund to be appropriated for the expenses of administering early childhood programs and services. This amendment aligns the fund uses with the language in the companion joint resolution SJR6.

Synopsis:

Senate Bill 167 (SB167) reestablishes the Early Childhood Education and Care Fund ("ECECF") as the Early Childhood Trust Fund ("ECTF"), which would be a new fund created in the NM constitution if Senate Joint Resolution 6 (SJR6) is also passed and ultimately approved by New Mexico voters in a future statewide election.

Since the ECECF was originally created in the state treasury, not the NM constitution, a separate constitutional amendment (SJR6) would establish the fund in the constitution and this bill (SB167) would transfer the balance of the statutory fund to the constitutional fund. SB167 also redirects all current recurring revenue sources for the ECECF to the ECTF.

SJR6 sets the ECTF distribution as the greater of $500 million or 5% of the three-year average market value of the fund. To be consistent with this requirement, SB167 increases the existing trust fund's minimum required annual distribution from $250 million to $500 million.

SJR6 states distributions from the trust fund shall only be used for prenatal and early childhood programs and services for children until they are eligible for kindergarten. SB167 renames the Early Childhood Education and Care Program Fund (which is the fund that receives distributions from the trust fund) as the "Early Childhood Program Fund" and amends the allowable uses of the monies in this fund to be consistent with the requirement described in SJR6.

Under current law, the ECECF contains provisions to allow for expenditure from the corpus of the trust fund if (1) all authorized revenues/transfers to the general fund and balances in the operating reserve, appropriation contingency fund, tobacco settlement permanent fund, state-support reserve fund, and tax stabilization reserve are insufficient to cover general fund appropriations for a fiscal year, and (2) the legislature has authorized transfers from those funds for that fiscal year that exhaust those fund balances.

SJR6 maintains the ability for money from the corpus of the ECTF to be expended if state fund balances are insufficient to cover the current fiscal year's appropriations. SB167 amends the existing language for this provision to remove the tobacco settlement permanent fund[1] from the list of state funds that must be exhausted in order to access the trust fund and specifies this provision can only be used for the current fiscal year.

If passed, SJR6 would be voted on by New Mexicans in a future statewide election. The provisions

[1] Chapter 25 (SB116) of the 2024 legislative session removed the Tobacco Settlement Permanent Fund, as a reserve fund of the state.

of SB167 would become effective upon the amendment of the NM constitution in accordance with the provisions of SJR6.

FISCAL IMPLICATIONS

This bill transfers the balance of the existing Early Childhood Education and Care Fund (“ECECF”), which was $9.015 billion as of 12/31/2024, to the new Early Childhood Trust Fund (“ECTF”).

The ECTF would also receive all of the same recurring revenue sources that are currently received by the ECECF, which are:

1. Oil and gas emergency school tax revenues in excess of the 5-year annual average receipts of these funds[2], and
2. Federal royalty payments in excess of the 5-year annual average receipts of these funds.

Distributions from the Trust Fund to the Program Fund

Based on current law, the ECECF annually distributes the greater of $250 million or 5% of the prior 3-year average market value. Without any changes, the FY26 distribution from the trust fund would be $303.3 million. Using consensus revenue estimate assumptions for inflows and returns, the ECECF would distribute an estimated $410.9 million to the program fund in FY27, and distributions could begin to exceed $500 million/year in FY28 or FY29.

SB167 (and SJR6) increases the minimum required annual distribution from the ECECF/ECTF from $250 million to $500 million, which would effectively “speed up” the timing for the trust fund to begin making distributions of this size or greater.

The fiscal impact is an additional $196.7 million from the corpus of the trust fund to the program fund in FY26, and an estimated additional $89.1 million from the corpus of the trust fund to the program fund in FY27.

The tables in the appendices show the long-term estimated impact of this “speed up” to the corpus of trust fund and the size of the distributions to the program fund. Appendix 1 shows the impact using a 5% long-term annual return assumption, consistent with the assumptions of the consensus revenue estimating group. Appendix 2 shows the impact using a 6.77% long-term annual return assumption, which is the ECECF’s estimated long-term expected compound return as determined in the 2024 Asset Allocation Study based on our general consultant RVK’s long-term capital market assumptions.

Early Childhood Program Fund Uses

Currently, monies in the early childhood program fund may be appropriated for a broad array of early childhood education and care services. The requirements of this bill (along with SJR6) would

[2] Note, contribution of revenues from this source into the ECECT/ECTF occurs as long as the balance of the Tax Stabilization Reserve (the state’s “rainy day fund”) is at least 25% of recurring general fund appropriations.

narrow the allowable uses of the program fund to only prenatal programs/services and early childhood programs/services for children until they are eligible for kindergarten.

Therefore, the bill could potentially have a budget impact on the Early Childhood Education and Care Department and/or other departments if they are currently receiving funding from the early childhood program fund under a broader definition of the fund's allowable uses.

PERFORMANCE IMPLICATIONS

As of 11/30/2024, the existing ECECF earned a 1-year net return of 11.63% and a 3-year net return of 5.85%.

The Council voted in May 2023 to shift the ECECF's asset allocation toward more growth-oriented assets, increasing the fund's future long-term expected performance. Because SB167/SJR6 maintains current provisions to allow for expenditure from the corpus of the trust fund to avoid a budget deficit, it is unlikely the Council will amend the fund's asset allocation based on the passage of these bills. The Council will continue to manage the trust fund in accordance with the Uniform Prudent Investor Act and seek to ethically optimize risk-adjusted returns and grow the fund over time.

ADMINISTRATIVE IMPLICATIONS

By transitioning the statutory ECECF to a new constitutional ECTF, it is unclear whether SIC would be required to create new accounting mechanisms to transfer assets from an old account to a new account, or if the fund could simply be renamed for SIC's accounting purposes.

SIC will need to consult with the Department of Finance and Administration, the State Treasurer's Office, and our custodian bank to determine if SB167/SJR6 would require an actual transfer of assets between accounts, which could potentially have small associated transaction costs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 167 is a companion to Senate Joint Resolution 6.

TECHNICAL ISSUES

Since SB167 changes the name of the current Early Childhood Education and Care Fund in Section 9-29A-2 NMSA 1978 (recompiled as Section 6-4-35 NMSA 1978) to the Early Childhood Trust Fund – but does not repeal the existing ECECF – it is unclear whether the temporary provision in Section 5 of SB167 to transfer the balance of the ECECF to the ECTF is necessary.

Appendix 1 – Fiscal impact of increasing the minimum required trust fund distribution from $250 million to $500 million, using a 5% long-term return assumption

5% Long Term Return Assumption (Consensus Revenue Estimate)

Trust Fund Market Value				Distributions to Program Fund			
Calendar Year	Current	Proposed	Difference	Fiscal year	Current	Proposed	Difference
2020	$ 306.1	$ 306.1	$ -	**FY20**			$ -
2021	$ 314.1	$ 314.1	$ -	**FY21**			$ -
2022	$ 3,462.0	$ 3,462.0	$ -	**FY22**	$ 20.0	$ 20.0	$ -
2023	$ 5,721.2	$ 5,721.2	$ -	**FY23**	$ 30.0	$ 30.0	$ -
2024	$ 9,015.8	$ 9,015.8	$ -	**FY24**	$ 150.0	$ 150.0	$ -
2025	$ 9,918.0	$ 9,721.3	**$ (196.7)**	**FY25**	$ 250.0	$ 250.0	**$ -**
2026	$ 10,893.8	$ 10,598.2	**$ (295.6)**	**FY26**	$ 303.3	$ 500.0	**$ 196.7**
2027	$ 11,529.0	$ 11,215.8	**$ (313.3)**	**FY27**	$ 410.9	$ 500.0	**$ 89.1**
2028	$ 12,022.9	$ 11,707.4	**$ (315.5)**	**FY28**	$ 497.1	$ 500.0	**$ 2.9**
2029	$ 12,603.0	$ 12,287.1	**$ (315.9)**	**FY29**	$ 539.0	$ 525.6	**$ (13.4)**
2030	$ 12,920.4	$ 12,604.5	**$ (315.9)**	**FY30**	$ 574.1	$ 558.7	**$ (15.4)**
2031	$ 13,199.2	$ 12,883.3	**$ (315.9)**	**FY31**	$ 602.6	$ 586.8	**$ (15.7)**
2032	$ 13,432.7	$ 13,116.8	**$ (315.9)**	**FY32**	$ 625.8	$ 610.0	**$ (15.8)**
2033	$ 13,580.5	$ 13,264.6	**$ (315.9)**	**FY33**	$ 645.4	$ 629.6	**$ (15.8)**
2034	$ 13,648.2	$ 13,332.2	**$ (315.9)**	**FY34**	$ 659.2	$ 643.4	**$ (15.8)**
2035	$ 13,668.5	$ 13,352.5	**$ (315.9)**	**FY35**	$ 670.2	$ 654.4	**$ (15.8)**
2036	$ 13,670.3	$ 13,354.4	**$ (315.9)**	**FY36**	$ 677.7	$ 661.9	**$ (15.8)**
2037	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY37**	$ 681.6	$ 665.8	**$ (15.8)**
2038	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY38**	$ 683.1	$ 667.3	**$ (15.8)**
2039	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY39**	$ 683.5	$ 667.7	**$ (15.8)**
2040	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY40**	$ 683.5	$ 667.7	**$ (15.8)**
2041	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY41**	$ 683.5	$ 667.7	**$ (15.8)**
2042	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY42**	$ 683.5	$ 667.7	**$ (15.8)**
2043	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY43**	$ 683.5	$ 667.7	**$ (15.8)**
2044	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY44**	$ 683.5	$ 667.7	**$ (15.8)**
2045	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY45**	$ 683.5	$ 667.7	**$ (15.8)**
2046	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY46**	$ 683.5	$ 667.7	**$ (15.8)**
2047	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY47**	$ 683.5	$ 667.7	**$ (15.8)**
2048	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY48**	$ 683.5	$ 667.7	**$ (15.8)**
2049	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY49**	$ 683.5	$ 667.7	**$ (15.8)**
2050	$ 13,670.7	$ 13,354.8	**$ (315.9)**	**FY50**	$ 683.5	$ 667.7	**$ (15.8)**

Using a 5% return assumption results in a "flattening" of the long-term fiscal impact, since the interest earnings on the trust fund corpus is assumed to be equal to the 5% distribution rate to the program fund.

Appendix 2 – Fiscal impact of increasing the minimum required trust fund distribution from $250 million to $500 million, using a 6.77% long-term return assumption

6.77% Long Term Return Assumption (2024 RVK Asset Allocation Study)

Trust Fund Market Value				Distributions to Program Fund			
Calendar Year	Current	Proposed	Difference	Fiscal year	Current	Proposed	Difference
2020	$ 306.1	$ 306.1	$ -	FY20	$ -	$ -	$ -
2021	$ 314.1	$ 314.1	$ -	FY21	$ -	$ -	$ -
2022	$ 3,462.0	$ 3,462.0	$ -	FY22	$ 20.0	$ 20.0	$ -
2023	$ 5,721.2	$ 5,721.2	$ -	FY23	$ 30.0	$ 30.0	$ -
2024	$ 9,015.8	$ 9,015.8	$ -	FY24	$ 150.0	$ 150.0	$ -
2025	$ 10,080.9	$ 9,884.2	$ (196.7)	FY25	$ 250.0	$ 250.0	$ -
2026	$ 11,249.5	$ 10,953.1	$ (296.4)	FY26	$ 302.0	$ 500.0	$ 198.0
2027	$ 12,099.2	$ 11,788.5	$ (310.7)	FY27	$ 416.5	$ 500.0	$ 83.5
2028	$ 12,822.1	$ 12,503.8	$ (318.3)	FY28	$ 505.6	$ 500.0	$ (5.6)
2029	$ 13,645.6	$ 13,321.2	$ (324.4)	FY29	$ 545.3	$ 531.9	$ (13.4)
2030	$ 14,219.7	$ 13,889.2	$ (330.5)	FY30	$ 566.8	$ 551.5	$ (15.3)
2031	$ 14,765.5	$ 14,428.8	$ (336.7)	FY31	$ 583.4	$ 567.6	$ (15.8)
2032	$ 15,275.9	$ 14,933.0	$ (342.9)	FY32	$ 602.7	$ 586.6	$ (16.1)
2033	$ 15,709.5	$ 15,360.2	$ (349.3)	FY33	$ 621.0	$ 604.6	$ (16.4)
2034	$ 16,070.1	$ 15,714.3	$ (355.8)	FY34	$ 635.9	$ 619.1	$ (16.8)
2035	$ 16,389.6	$ 16,027.2	$ (362.4)	FY35	$ 647.9	$ 630.9	$ (17.1)
2036	$ 16,696.4	$ 16,327.2	$ (369.2)	FY36	$ 660.1	$ 642.7	$ (17.4)
2037	$ 17,007.5	$ 16,631.5	$ (376.0)	FY37	$ 672.3	$ 654.6	$ (17.7)
2038	$ 17,324.0	$ 16,941.0	$ (383.0)	FY38	$ 684.8	$ 666.8	$ (18.0)
2039	$ 17,646.4	$ 17,256.2	$ (390.2)	FY39	$ 697.6	$ 679.2	$ (18.4)
2040	$ 17,974.7	$ 17,577.3	$ (397.4)	FY40	$ 710.6	$ 691.9	$ (18.7)
2041	$ 18,309.2	$ 17,904.4	$ (404.8)	FY41	$ 723.8	$ 704.7	$ (19.1)
2042	$ 18,649.9	$ 18,237.6	$ (412.3)	FY42	$ 737.3	$ 717.8	$ (19.4)
2043	$ 18,996.9	$ 18,576.9	$ (420.0)	FY43	$ 751.0	$ 731.2	$ (19.8)
2044	$ 19,350.4	$ 18,922.6	$ (427.8)	FY44	$ 765.0	$ 744.8	$ (20.1)
2045	$ 19,710.5	$ 19,274.7	$ (435.8)	FY45	$ 779.2	$ 758.7	$ (20.5)
2046	$ 20,077.3	$ 19,633.4	$ (443.9)	FY46	$ 793.7	$ 772.8	$ (20.9)
2047	$ 20,450.9	$ 19,998.7	$ (452.2)	FY47	$ 808.5	$ 787.2	$ (21.3)
2048	$ 20,831.4	$ 20,370.8	$ (460.6)	FY48	$ 823.5	$ 801.8	$ (21.7)
2049	$ 21,219.0	$ 20,749.9	$ (469.1)	FY49	$ 838.8	$ 816.7	$ (22.1)
2050	$ 21,613.9	$ 21,136.0	$ (477.9)	FY50	$ 854.4	$ 831.9	$ (22.5)

Using a higher return assumption reflects a higher long-term fiscal impact due to greater "lost earnings" from the sped-up distributions.